

108TH CONGRESS
1ST SESSION

S. 87

To provide for homeland security block grants.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2003

Mrs. CLINTON (for herself, Mr. DURBIN, Mr. CORZINE, Mrs. BOXER, Mr. SCHUMER, Mrs. FEINSTEIN, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To provide for homeland security block grants.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Homeland Security Block Grant Act of 2003”.

6 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Grants to States, units of general local government and Indian tribes;
authorizations.
- Sec. 5. Statement of activities and review.
- Sec. 6. Activities eligible for assistance.
- Sec. 7. Allocation and distribution of funds.
- Sec. 8. State and regional planning communication systems.
- Sec. 9. Nondiscrimination in programs and activities.

Sec. 10. Remedies for noncompliance with requirements.

Sec. 11. Reporting requirements.

Sec. 12. Consultation by Secretary.

Sec. 13. Interstate agreements or compacts; purposes.

Sec. 14. Matching requirements; suspension of requirements for economically distressed areas.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) In the wake of the September 11, 2001, ter-
 4 rorist attacks on our country, communities all across
 5 American now find themselves on the front lines in
 6 the war against terrorism on United States soil.

7 (2) We recognize that these communities will be
 8 forced to shoulder a significant portion of the bur-
 9 den that goes along with that responsibility. We be-
 10 lieve that local governments should not have to bear
 11 that responsibility alone.

12 (3) Our homeland defense will only be as strong
 13 as the weakest link at the State and local level. By
 14 providing our communities with the resources and
 15 tools they need to bolster emergency response efforts
 16 and provide for other emergency response initiatives,
 17 we will have a better-prepared home front and a
 18 stronger America.

19 **SEC. 3. DEFINITIONS.**

20 (a) DEFINITIONS.—In this Act:

1 (1) SECRETARY.—The term “Secretary” means
2 the Secretary of the Department of Homeland Secu-
3 rity.

4 (2) CITY.—The term “city” means—

5 (A) any unit of general local government
6 that is classified as a municipality by the
7 United States Bureau of the Census; or

8 (B) any other unit of general local govern-
9 ment that is a town or township and which, in
10 the determination of the Secretary—

11 (i) possesses powers and performs
12 functions comparable to those associated
13 with municipalities;

14 (ii) is closely settled; and

15 (iii) contains within its boundaries no
16 incorporated places as defined by the
17 United States Bureau of the Census that
18 have not entered into cooperation agree-
19 ments with such town or township to un-
20 dertake or to assist in the performance of
21 homeland security objectives.

22 (3) FEDERAL GRANT-IN-AID PROGRAM.—The
23 term “Federal grant-in-aid program” means a pro-
24 gram of Federal financial assistance other than

loans and other than the assistance provided by this Act.

(4) INDIAN TRIBE.—The term “Indian tribe” means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(5) METROPOLITAN AREA.—The term “metropolitan area” means a standard metropolitan statistical area as established by the Office of Management and Budget.

(6) METROPOLITAN CITY.—

(A) IN GENERAL.—The term “metropolitan city” means—

(i) a city within a metropolitan area that is the central city of such area, as defined and used by the Office of Management and Budget; or

(ii) any other city, within a metropolitan area, which has a population of not less than 50,000.

1 (B) PERIOD OF CLASSIFICATION.—Any
2 city that was classified as a metropolitan city
3 for at least 2 years pursuant to subparagraph
4 (A) shall remain classified as a metropolitan
5 city. Any unit of general local government that
6 becomes eligible to be classified as a metropoli-
7 tan city, and was not classified as a metropoli-
8 tan city in the immediately preceding fiscal
9 year, may, upon submission of written notifica-
10 tion to the Secretary, defer its classification as
11 a metropolitan city for all purposes under this
12 Act, if it elects to have its population included
13 in an urban county under subsection (d).

14 (C) ELECTION BY A CITY.—Notwith-
15 standing subparagraph (B), a city may elect not
16 to retain its classification as a metropolitan
17 city. Any unit of general local government that
18 was classified as a metropolitan city in any
19 year, may, upon submission of written notifica-
20 tion to the Secretary, relinquish such classifica-
21 tion for all purposes under this Act if it elects
22 to have its population included with the popu-
23 lation of a county for purposes of qualifying for
24 assistance (for such following fiscal year) under
25 section 5(e) as an urban county.

1 (7) NONQUALIFYING COMMUNITY.—The term
 2 “nonqualifying community” means an area that is
 3 not a metropolitan city or part of an urban county
 4 and does not include Indian tribes.

5 (8) POPULATION.—The term “population”
 6 means total resident population based on data com-
 7 piled by the United States Bureau of the Census
 8 and referable to the same point or period of time.

9 (9) STATE.—The term “State” means any
 10 State of the United States, or any instrumentality
 11 thereof approved by the Governor; and the Common-
 12 wealth of Puerto Rico, the United States Virgin Is-
 13 lands, American Samoa, Guam, and the Northern
 14 Mariana Islands.

15 (10) UNIT OF GENERAL LOCAL GOVERN-
 16 MENT.—The term “unit of general local govern-
 17 ment” means any city, county, town, township, par-
 18 ish, village, or other general purpose political sub-
 19 division of a State; a combination of such political
 20 subdivisions is recognized by the Secretary; and the
 21 District of Columbia.

22 (11) URBAN COUNTY.—The term “urban coun-
 23 ty” means any county within a metropolitan area.

24 (b) BASIS AND MODIFICATION OF DEFINITIONS.—
 25 Where appropriate, the definitions in subsection (a) shall

1 be based, with respect to any fiscal year, on the most re-
 2 cent data compiled by the United States Bureau of the
 3 Census and the latest published reports of the Office of
 4 Management and Budget available ninety days prior to the
 5 beginning of such fiscal year. The Secretary may by regu-
 6 lation change or otherwise modify the meaning of the
 7 terms defined in subsection (a) in order to reflect any
 8 technical change or modification thereof made subsequent
 9 to such date by the United States Bureau of the Census
 10 or the Office of Management and Budget.

11 (c) DESIGNATION OF PUBLIC AGENCIES.—One or
 12 more public agencies, including existing local public agen-
 13 cies, may be designated by the chief executive officer of
 14 a State or a unit of general local government to undertake
 15 activities assisted under this Act.

16 (d) LOCAL GOVERNMENTS, INCLUSION IN URBAN
 17 COUNTY POPULATION.—With respect to program years
 18 beginning with the program year for which grants are
 19 made available from amounts appropriated for fiscal year
 20 2002 under section 4, the population of any unit of gen-
 21 eral local government which is included in that of an urban
 22 county as provided in subsection (a)(11) shall be included
 23 in the population of such urban county for three program
 24 years beginning with the program year in which its popu-
 25 lation was first so included and shall not otherwise be eli-

1 gible for a grant as a separate entity, unless the urban
 2 county does not receive a grant for any year during such
 3 three-year period.

4 (e) URBAN COUNTY.—Any county seeking qualifica-
 5 tion as an urban county, including any urban county seek-
 6 ing to continue such qualification, shall notify, as provided
 7 in this subsection, each unit of general local government,
 8 which is included therein and is eligible to elect to have
 9 its population excluded from that of an urban county, of
 10 its opportunity to make such an election. Such notification
 11 shall, at a time and in a manner prescribed by the Sec-
 12 retary, be provided so as to provide a reasonable period
 13 for response prior to the period for which such qualifica-
 14 tion is sought. The population of any unit of general local
 15 government which is provided such notification and which
 16 does not inform, at a time and in a manner prescribed
 17 by the Secretary, the county of its election to exclude its
 18 population from that of the county shall, if the county
 19 qualifies as an urban county, be included in the population
 20 of such urban county as provided in subsection (d).

21 **SEC. 4. GRANTS TO STATES, UNITS OF GENERAL LOCAL**
 22 **GOVERNMENT AND INDIAN TRIBES; AUTHOR-**
 23 **IZATIONS.**

24 (a) AUTHORIZATION.—The Secretary is authorized to
 25 make grants to States, units of general local government,

1 and Indian tribes to carry out activities in accordance with
 2 the provisions of this Act.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) IN GENERAL.—There are authorized to be
 5 appropriated \$3,000,000,000 for each of fiscal years
 6 2003 through 2006, and such sums as may be nec-
 7 essary thereafter, for the purpose of carrying out the
 8 provisions under section 7.

9 (2) STATE, REGIONAL, AND LOCAL PLANNING,
 10 TRAINING, AND COMMUNICATION SYSTEMS.—There
 11 are authorized to be appropriated \$500,000,000 for
 12 each of fiscal years 2003 through 2006, and such
 13 sums as may be necessary thereafter, for the pur-
 14 pose of carrying out the provisions under section 8.

15 **SEC. 5. STATEMENT OF ACTIVITIES AND REVIEW.**

16 (a) APPLICATION.—

17 (1) IN GENERAL.—Prior to the receipt in any
 18 fiscal year of a grant under section 7(b) by any met-
 19 ropolitan city or urban county, section 7(i) by any
 20 State, or section 7(i)(3) by any unit of general local
 21 government, the grantee shall—

22 (i) indicate its interest in receiving
 23 funds by preparing a statement of home-
 24 land security objectives and projected use
 25 of funds; and

1 (ii) provide the Secretary with the cer-
2 tifications required under paragraph (2)
3 and, where appropriate, subsection (b).

4 (2) GRANTEE STATEMENT.—

5 (A) CONTENTS.—

6 (i) LOCAL GOVERNMENT.—In the case
7 of metropolitan cities or urban counties re-
8 ceiving grants under section 7(b) and units
9 of general local government receiving
10 grants under section 7(i)(3), the statement
11 of projected use of funds shall consist of
12 proposed homeland security activities.

13 (ii) STATES.—In the case of States
14 receiving grants under section 7(d), the
15 statement of projected use of funds shall
16 consist of the method by which the States
17 will distribute funds to units of general
18 local government.

19 (B) CONSULTATION.—In preparing the
20 statement, the grantee shall consult with appro-
21 priate law enforcement agencies and emergency
22 response authorities.

23 (C) FINAL STATEMENT.—A copy of the
24 final statement and the certifications required
25 under paragraph (3) and, where appropriate,

1 subsection (b) shall be furnished to the Sec-
2 retary and the Attorney General.

3 (D) MODIFICATIONS.—Any final statement
4 of activities may be modified or amended from
5 time to time by the grantee in accordance with
6 the same procedures required in this paragraph
7 for the preparation and submission of such
8 statement.

9 (3) CERTIFICATION OF ENUMERATED CRITERIA
10 BY GRANTEE TO SECRETARY.—Any grant under sec-
11 tion 7 shall be made only if the grantee certifies to
12 the satisfaction of the Secretary that—

13 (A) it has developed a homeland security
14 plan pursuant to section 6(a)(8) that identifies
15 both short- and long-term homeland security
16 needs that have been developed in accordance
17 with the primary objective and requirements of
18 this Act; and

19 (B) the grantee will comply with the other
20 provisions of this Act and with other applicable
21 laws.

22 (b) SUBMISSION OF ANNUAL PERFORMANCE RE-
23 PORTS, AUDITS AND ADJUSTMENTS.—

24 (1) IN GENERAL.—Each grantee shall submit to
25 the Secretary, at a time determined by the Sec-

1 retary, a performance and evaluation report con-
2 cerning the use of funds made available under sec-
3 tion 7, together with an assessment by the grantee
4 of the relationship of such use to the objectives iden-
5 tified in the grantee's statement under subsection
6 (a)(2).

7 (2) UNIFORM REPORTING REQUIREMENTS.—

8 (A) RECOMMENDATIONS BY NATIONAL AS-
9 SOCIATIONS.—The Secretary shall encourage
10 and assist national associations of grantees eli-
11 gible under section 7, national associations of
12 States, and national associations of units of
13 general local government in nonqualifying areas
14 to develop and recommend to the Secretary,
15 within 1 year after the effective date of this
16 Act, uniform recordkeeping, performance re-
17 porting, evaluation reporting, and auditing re-
18 quirements for such grantees, States, and units
19 of general local government, respectively.

20 (B) ESTABLISHMENT OF UNIFORM RE-
21 PORTING REQUIREMENTS.—Based on the Sec-
22 retary's approval of the recommendations sub-
23 mitted pursuant to subparagraph (A), the Sec-
24 retary shall establish uniform reporting require-

1 ments for grantees, States, and units of general
2 local government.

3 (3) REVIEWS AND AUDITS.—The Secretary
4 shall, at least on an annual basis, make such reviews
5 and audits as may be necessary or appropriate to
6 determine—

7 (A) in the case of grants made under sec-
8 tion 7(b), whether the grantee has carried out
9 its activities and, where applicable, whether the
10 grantee has carried out those activities and its
11 certifications in accordance with the require-
12 ments and the primary objectives of this Act
13 and with other applicable laws, and whether the
14 grantee has a continuing capacity to carry out
15 those activities in a timely manner; and

16 (B) in the case of grants to States made
17 under section 7(i), whether the State has dis-
18 tributed funds to units of general local govern-
19 ment in a timely manner and in conformance to
20 the method of distribution described in its
21 statement, whether the State has carried out its
22 certifications in compliance with the require-
23 ments of this Act and other applicable laws,
24 and whether the State has made such reviews
25 and audits of the units of general local govern-

1 ment as may be necessary or appropriate to de-
2 termine whether they have satisfied the applica-
3 ble performance criteria described in subpara-
4 graph (A).

5 (4) ADJUSTMENTS.—The Secretary may make
6 appropriate adjustments in the amount of the an-
7 nual grants in accordance with the Secretary’s find-
8 ings under this subsection. With respect to assist-
9 ance made available to units of general local govern-
10 ment under section 7(i)(3), the Secretary may ad-
11 just, reduce, or withdraw such assistance, or take
12 other action as appropriate in accordance with the
13 Secretary’s reviews and audits under this subsection,
14 except that funds already expended on eligible activi-
15 ties under this Act shall not be recaptured or de-
16 ducted from future assistance to such units of gen-
17 eral local government.

18 (c) AUDITS.—Insofar as they relate to funds provided
19 under this Act, the financial transactions of recipients of
20 such funds may be audited by the General Accounting Of-
21 fice under such rules and regulations as may be prescribed
22 by the Comptroller General of the United States. The rep-
23 resentatives of the General Accounting Office shall have
24 access to all books, accounts, records, reports, files, and
25 other papers, things, or property belonging to or in use

1 by such recipients pertaining to such financial trans-
 2 actions and necessary to facilitate the audit.

3 (d) METROPOLITAN CITY AS PART OF URBAN COUN-
 4 TY.—In any case in which a metropolitan city is located,
 5 in whole or in part, within an urban county, the Secretary
 6 may, upon the joint request of such city and county, ap-
 7 prove the inclusion of the metropolitan city as part of the
 8 urban county for purposes of submitting a statement
 9 under section 5 and carrying out activities under this Act.

10 **SEC. 6. ACTIVITIES ELIGIBLE FOR ASSISTANCE.**

11 (a) IN GENERAL.—Activities assisted under this Act
 12 may include—

13 (1) funding additional law enforcement, fire,
 14 and emergency resources, including covering over-
 15 time expenses;

16 (2) purchasing and refurbishing personal pro-
 17 tective equipment for fire, police, and emergency
 18 personnel and acquire state-of-the-art technology to
 19 improve communication and streamline efforts;

20 (3) improving cyber and infrastructure security
 21 by improving—

22 (A) security for water treatment plants,
 23 distribution systems, other water infrastructure,
 24 nuclear power plants, and other power infra-
 25 structure;

1 (B) security for tunnels and bridges;

2 (C) security for oil and gas pipelines and
3 storage facilities; and

4 (D) security for chemical plants and trans-
5 portation of hazardous substances;

6 (4) assisting Local Emergency Planning Com-
7 mittees so that local public agencies can design, re-
8 view, and improve disaster response systems;

9 (5) assisting communities in coordinating their
10 efforts and sharing information with all relevant
11 agencies involved in responding to terrorist attacks;

12 (6) establishing timely notification systems that
13 enable communities to communicate with each other
14 when a threat emerges;

15 (7) improving communication systems to pro-
16 vide information to the public in a timely manner
17 about the facts of any threat and the precautions
18 the public should take; and

19 (8) devising a homeland security plan, including
20 determining long-term goals and short-term objec-
21 tives, evaluating the progress of the plan, and car-
22 rying out the management, coordination, and moni-
23 toring of activities necessary for effective planning
24 implementation.

1 (b) COSTS COVERED.—Grants received under section
 2 7 may be used to cover any costs related to the eligible
 3 activities listed in this section that were incurred on or
 4 after September 11, 2001.

5 **SEC. 7. ALLOCATION AND DISTRIBUTION OF FUNDS.**

6 (a) SET-ASIDE FOR INDIAN TRIBES.—

7 (1) IN GENERAL.—For each fiscal year, of the
 8 amount appropriated for grants pursuant to section
 9 4(b)(1) (excluding the amounts provided for use in
 10 accordance with section 6), the Secretary shall re-
 11 serve 1 percent of the amount so appropriated for
 12 grants to Indian tribes.

13 (2) SELECTION OF INDIAN TRIBES.—

14 (A) IN GENERAL.—The Secretary shall
 15 provide for distribution of amounts under this
 16 paragraph to Indian tribes on the basis of a
 17 competition conducted pursuant to specific cri-
 18 teria for the selection of Indian tribes to receive
 19 such amounts.

20 (B) RULEMAKING.—The criteria shall be
 21 contained in a regulation promulgated by the
 22 Secretary after notice and public comment.

23 (b) ALLOCATION TO METROPOLITAN CITIES AND
 24 URBAN COUNTIES.—

1 (1) ALLOCATION PERCENTAGE.—Of the amount
 2 remaining after allocations have been made to In-
 3 dian tribes pursuant to subsection (a), 70 percent
 4 shall be allocated by the Secretary to metropolitan
 5 cities and urban counties.

6 (2) ENTITLEMENT.—Except as otherwise spe-
 7 cifically authorized, each metropolitan city and
 8 urban county shall be entitled to an annual grant,
 9 to the extent authorized beyond fiscal year 2006,
 10 from such allocation in an amount not exceeding its
 11 basic amount computed pursuant to this subsections
 12 (c) and (d).

13 (c) COMPUTATION OF AMOUNT ALLOCATED TO MET-
 14 ROPOLITAN CITIES.—

15 (1) COMPUTATION RATIOS.—The Secretary
 16 shall determine the amount to be allocated to each
 17 metropolitan city, which shall bear the same ratio to
 18 the allocation for all metropolitan cities as the
 19 weighted average of—

20 (A) the population of the metropolitan city
 21 divided by the population of all metropolitan
 22 cities;

23 (B) the potential risk, as it pertains to
 24 chemical security, of the metropolitan city di-

vided by the potential risk, as it pertains to
chemical security, of all metropolitan cities;

(C) the proximity of the metropolitan city
to the nearest operating nuclear power plant
and the proximity of all metropolitan cities to
the nearest operating nuclear power plant to
each such city;

(D) the proximity of the metropolitan city
to the nearest United States land or water port
and the proximity of all metropolitan cities to
the nearest United States land or water port to
each such city;

(E) the proximity of the metropolitan city
to the nearest international border and the
proximity of all metropolitan cities to the near-
est international border to each such city; and

(F) the proximity of the metropolitan city
to the nearest Disaster Medical Assistance
Team (referred to in this subsection as
“DMAT”) and the proximity of all metropolitan
cities to the nearest DMAT to each such city.

(2) CLARIFICATION OF COMPUTATION RA-
TIOS.—

(A) RELATIVE WEIGHT OF FACTORS.—In
determining the average of the ratios under

1 paragraph (1), the ratio involving population
2 shall constitute 50 percent of the formula in
3 calculating the allocation and the remaining
4 factors shall be equally weighted.

5 (B) POTENTIAL RISK AS IT PERTAINS TO
6 CHEMICAL SECURITY.—If a metropolitan city is
7 within the vulnerable zone of a worst-case
8 chemical release, as specified in the most recent
9 risk management plans filed with the Environ-
10 mental Protection Agency or another instru-
11 ment developed by the Environmental Protec-
12 tion Agency or the Homeland Security Depart-
13 ment that captures the same information for
14 the same facilities, the ratio under paragraph
15 (1)(B) shall be 1 divided by the total number
16 of metropolitan cities that are within such a
17 zone.

18 (C) PROXIMITY AS IT PERTAINS TO NU-
19 CLEAR SECURITY.—If a metropolitan city is lo-
20 cated within 50 miles of an operating nuclear
21 power plant, as identified by the Nuclear Regu-
22 latory Commission, the ratio under paragraph
23 (1)(C) shall be 1 divided by the total number of
24 metropolitan cities, not to exceed 100, which

are located within 50 miles of an operating nuclear power plant.

(D) PROXIMITY AS IT PERTAINS TO PORT SECURITY.—If a metropolitan city is located within 50 miles of 1 of the 100 largest United States ports, as stated by the Department of Transportation, Bureau of Transportation Statistics, United States Port Report by All Land Modes, or within 50 miles of one of the 30 largest United States water ports by metric tons and value, as stated by the Department of Transportation, Maritime Administration, United States Foreign Waterborne Transportation Statistics, the ratio under paragraph (1)(D) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of a United States land or water port.

(E) PROXIMITY TO INTERNATIONAL BORDERS.—If a metropolitan city is located within 50 miles of an international border, the ratio under paragraph (1)(E) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of an international border.

1 (F) PROXIMITY TO DISASTER MEDICAL AS-
 2 SISTANCE TEAMS.—If a metropolitan city is lo-
 3 cated within 50 miles of a DMAT, as organized
 4 by the National Disaster Medical System
 5 through the Department of Public Health, the
 6 ratio under paragraph (1)(F) shall be 1 divided
 7 by the total number of metropolitan cities that
 8 are located within 50 miles of a DMAT.

9 (d) COMPUTATION OF AMOUNT ALLOCATED TO
 10 URBAN COUNTIES.—

11 (1) COMPUTATION RATIOS.—The Secretary
 12 shall determine the amount to be allocated to each
 13 urban county, which shall bear the same ratio to the
 14 allocation for all urban counties as the weighted av-
 15 erage of—

16 (A) the population of the urban county di-
 17 vided by the population of all urban counties;

18 (B) the potential risk, as it pertains to
 19 chemical security, of the urban county divided
 20 by the potential risk, as it pertains to chemical
 21 security, of all urban counties;

22 (C) the proximity of the urban county to
 23 the nearest operating nuclear power plant and
 24 the proximity of all urban counties to the near-

1 est operating nuclear power plant to each such
 2 city;

3 (D) the proximity of the urban county to
 4 the nearest United States land or water port
 5 and the proximity of all urban counties to the
 6 nearest United States land or water port to
 7 each such city;

8 (E) the proximity of the urban county to
 9 the nearest international border and the prox-
 10 imity of all urban counties to the nearest inter-
 11 national border to each such city; and

12 (F) the proximity of the urban county to
 13 the nearest Disaster Medical Assistance Team
 14 (referred to in this subsection as “DMAT”) and
 15 the proximity of all urban counties to the near-
 16 est DMAT to each such city.

17 (3) CLARIFICATION OF COMPUTATION RA-
 18 TIOS.—

19 (A) RELATIVE WEIGHT OF FACTORS.—In
 20 determining the average of the ratios under
 21 paragraph (1), the ratio involving population
 22 shall constitute 50 percent of the formula in
 23 calculating the allocation and the remaining
 24 factors shall be equally weighted.

1 (B) POTENTIAL RISK AS IT PERTAINS TO
2 CHEMICAL SECURITY.—If a urban county is
3 within the vulnerable zone of a worst-case
4 chemical release, as specified in the most recent
5 risk management plans filed with the Environ-
6 mental Protection Agency or another instru-
7 ment developed by the Environmental Protec-
8 tion Agency or the Homeland Security Depart-
9 ment that captures the same information for
10 the same facilities, the ratio under paragraph
11 (1)(B) shall be 1 divided by the total number
12 of urban counties that are within such a zone.

13 (C) PROXIMITY AS IT PERTAINS TO NU-
14 CLEAR SECURITY.—If a urban county is located
15 within 50 miles of an operating nuclear power
16 plant, as identified by the Nuclear Regulatory
17 Commission, the ratio under paragraph (1)(C)
18 shall be 1 divided by the total number of urban
19 counties, not to exceed 100, which are located
20 within 50 miles of an operating nuclear power
21 plant.

22 (D) PROXIMITY AS IT PERTAINS TO PORT
23 SECURITY.—If a urban county is located within
24 50 miles of 1 of the 100 largest United States
25 ports, as stated by the Department of Trans-

1 portation, Bureau of Transportation Statistics,
2 United States Port Report by All Land Modes,
3 or within 50 miles of one of the 30 largest
4 United States water ports by metric tons and
5 value, as stated by the Department of Trans-
6 portation, Maritime Administration, United
7 States Foreign Waterborne Transportation Sta-
8 tistics, the ratio under paragraph (1)(D) shall
9 be 1 divided by the total number of urban coun-
10 ties that are located within 50 miles of a United
11 States land or water port.

12 (E) PROXIMITY TO INTERNATIONAL BOR-
13 DERS.—If a urban county is located within 50
14 miles of an international border, the ratio under
15 paragraph (1)(E) shall be 1 divided by the total
16 number of urban counties that are located with-
17 in 50 miles of an international border.

18 (F) PROXIMITY TO DISASTER MEDICAL AS-
19 SISTANCE TEAMS.—If a urban county is located
20 within 50 miles of a DMAT, as organized by
21 the National Disaster Medical System through
22 the Department of Public Health, the ratio
23 under paragraph (1)(F) shall be 1 divided by
24 the total number of urban counties that are lo-
25 cated within 50 miles of a DMAT.

1 (e) EXCLUSIONS.—

2 (1) IN GENERAL.—In computing amounts or
 3 exclusions under subsection (d) with respect to any
 4 urban county, there shall be excluded units of gen-
 5 eral local government located in the county the pop-
 6 ulations that are not counted in determining the eli-
 7 gibility of the urban county to receive a grant under
 8 this subsection, except that there shall be included
 9 any independent city (as defined by the Bureau of
 10 the Census) which—

11 (A) is not part of any county;

12 (B) is not eligible for a grant;

13 (C) is contiguous to the urban county;

14 (D) has entered into cooperation agree-
 15 ments with the urban county which provide that
 16 the urban county is to undertake or to assist in
 17 the undertaking of essential community devel-
 18 opment and housing assistance activities with
 19 respect to such independent city; and

20 (E) is not included as a part of any other
 21 unit of general local government for purposes of
 22 this section.

23 (2) INDEPENDENT CITIES.—Any independent
 24 city that is included in any fiscal year for purposes
 25 of computing amounts pursuant to the preceding

1 sentence shall not be eligible to receive assistance
2 under subsection (i) with respect to such fiscal year.

3 (f) INCLUSIONS.—

4 (1) LOCAL GOVERNMENT STRADDLING COUNTY
5 LINE.—In computing amounts under subsection (d)
6 with respect to any urban county, there shall be in-
7 cluded all of the area of any unit of local govern-
8 ment which is part of, but is not located entirely
9 within the boundaries of, such urban county if—

10 (A) the part of such unit of local govern-
11 ment that is within the boundaries of such
12 urban county would otherwise be included in
13 computing the amount for such urban county
14 under this section; and

15 (B) the part of such unit of local govern-
16 ment that is not within the boundaries of such
17 urban county is not included as a part of any
18 other unit of local government for the purpose
19 of this section.

20 (2) USE OF GRANT FUNDS OUTSIDE URBAN
21 COUNTY.—Any amount received under this section
22 by an urban county described under paragraph (1)
23 may be used with respect to the part of such unit
24 of local government that is outside the boundaries of
25 such urban county.

1 (g) POPULATION.—

2 (1) EFFECT OF CONSOLIDATION.—Where data
3 are available, the amount to be allocated to a metro-
4 politan city that has been formed by the consolida-
5 tion of 1 or more metropolitan cities within an
6 urban county shall be equal to the sum of the
7 amounts that would have been allocated to the urban
8 county or cities and the balance of the consolidated
9 government, if such consolidation had not occurred.

10 (2) LIMITATION.—Paragraph (1) shall apply
11 only to a consolidation that—

12 (A) included all metropolitan cities that re-
13 ceived grants under this section for the fiscal
14 year preceding such consolidation and that were
15 located within the urban county;

16 (B) included the entire urban county that
17 received a grant under this section for the fiscal
18 year preceding such consolidation; and

19 (C) took place on or after January 1,
20 2003.

21 (3) GROWTH RATE.—The population growth
22 rate of all metropolitan cities defined in section
23 3(a)(6) shall be based on the population of—

1 (A) metropolitan cities other than consoli-
 2 dated governments the grant for which is deter-
 3 mined under this paragraph; and

4 (B) cities that were metropolitan cities be-
 5 fore their incorporation into consolidated gov-
 6 ernments.

7 (4) ENTITLEMENT SHARE.—For purposes of
 8 calculating the entitlement share for the balance of
 9 the consolidated government under this subsection,
 10 the entire balance shall be considered to have been
 11 an urban county.

12 (h) REALLOCATION.—

13 (1) IN GENERAL.—Except as provided in para-
 14 graph (2), any amounts allocated to a metropolitan
 15 city or an urban county pursuant to this section that
 16 are not received by the city or county for a fiscal
 17 year because of failure to meet the requirements of
 18 subsections (a) and (b) of section 5, or that other-
 19 wise became available, shall be reallocated in the
 20 succeeding fiscal year to the other metropolitan cit-
 21 ies and urban counties in the same metropolitan
 22 area that certify to the satisfaction of the Secretary
 23 that they would be adversely affected by the loss of
 24 such amounts from the metropolitan area.

1 (2) **RATIO.**—The amount of the share of funds
2 reallocated under this paragraph for any metropoli-
3 tan city or urban county shall bear the same ratio
4 to the total of such reallocated funds in the metro-
5 politan area as the amount of funds awarded to the
6 city or county for the fiscal year in which the reallo-
7 cated funds become available bears to the total
8 amount of funds awarded to all metropolitan cities
9 and urban counties in the same metropolitan area
10 for that fiscal year.

11 (3) **TRANSFER.**—Notwithstanding paragraphs
12 (1) and (2), the Secretary may upon request trans-
13 fer responsibility to any metropolitan city for the ad-
14 ministration of any amounts received, but not obli-
15 gated, by the urban county in which such city is lo-
16 cated if—

17 (A) such city was an included unit of gen-
18 eral local government in such county prior to
19 the qualification of such city as a metropolitan
20 city;

21 (B) such amounts were designated and re-
22 ceived by such county for use in such city prior
23 to the qualification of such city as a metropoli-
24 tan city; and

1 (C) such city and county agree to such
 2 transfer of responsibility for the administration
 3 of such amounts.

4 (i) ALLOCATION TO STATES ON BEHALF OF NON-
 5 QUALIFYING COMMUNITIES.—

6 (1) IN GENERAL.—Of the amount appropriated
 7 pursuant to section 4 that remains after allocations
 8 pursuant to subsections (a) and (b), 30 percent shall
 9 be allocated among the States for use in nonquali-
 10 fying communities.

11 (2) ALLOCATION RATIO.—

12 (A) POPULATION-BASED.—The allocation
 13 for each State shall be based on the population
 14 of that State, relative to the populations of all
 15 States, excluding the population of qualifying
 16 communities.

17 (B) PRO-RATA REDUCTION.—The Sec-
 18 retary shall make a pro rata reduction of each
 19 amount allocated to the nonqualifying commu-
 20 nities in each State under subparagraph (A) so
 21 that the nonqualifying communities in each
 22 State will receive the same percentage of the
 23 total amount available under this subsection as
 24 the percentage that such communities would
 25 have received if the total amount available had

1 equaled the total amount allocated under sub-
2 paragraph (A).

3 (3) DISTRIBUTION.—

4 (A) IN GENERAL.—Amounts allocated
5 under this subsection shall be distributed to
6 units of general local government located in
7 nonqualifying areas of the State to carry out
8 activities in accordance with the provisions of
9 this Act—

10 (i) by a State that has elected, in such
11 manner and at such time as the Secretary
12 shall prescribe, to distribute such amounts
13 consistent with the statement submitted
14 under section 5(a); or

15 (ii) by the Secretary, if the State has
16 not elected to distribute such amounts.

17 (B) CERTIFICATION.—Before a State may
18 receive or distribute amounts allocated under
19 this subsection, the State must certify that—

20 (i) with respect to units of general
21 local government in nonqualifying areas,
22 the State—

23 (I) provides, or will provide, tech-
24 nical assistance to units of general

1 local government in connection with
2 homeland security initiatives;

3 (II) will not refuse to distribute
4 such amounts to any unit of general
5 local government on the basis of the
6 particular eligible activity selected by
7 such unit of general local government
8 to meet its homeland security objec-
9 tives, except that this clause may not
10 be considered to prevent a State from
11 establishing priorities in distributing
12 such amounts on the basis of the ac-
13 tivities selected; and

14 (III) has consulted with local
15 elected officials from among units of
16 general local government located in
17 nonqualifying areas of that State in
18 determining the method of distribu-
19 tion of funds required by subpara-
20 graph (A); and

21 (ii) each unit of general local govern-
22 ment to be distributed funds will be re-
23 quired to identify its homeland security ob-
24 jectives, and the activities to be undertaken
25 to meet such objectives.

1 (4) MINIMUM AMOUNT.—Each State shall be
2 allocated in each fiscal year authorized under this
3 Act and under this section not less than 0.75 per-
4 cent of the total amount appropriated in one fiscal
5 year for grants made available to States under this
6 section, except that the American Samoa, Guam,
7 and the Northern Mariana Islands shall each be allo-
8 cated 0.25 percent.

9 (5) ADMINISTRATION.—

10 (A) IN GENERAL.—If a State receives and
11 distributes amounts under paragraph (1), the
12 State shall be responsible for the administration
13 of funds so distributed. The State shall pay for
14 all administrative expenses incurred by the
15 State in carrying out its responsibilities under
16 this Act, except that from the amounts received
17 for distribution in nonqualifying areas, the
18 State may deduct an amount to cover such ex-
19 penses and its administrative expenses not to
20 exceed the sum of \$150,000 plus 50 percent of
21 any such expenses under this Act in excess of
22 \$150,000. Amounts deducted in excess of
23 \$150,000 shall not exceed 2 percent of the
24 amount received under paragraph (1).

1 (B) DISTRIBUTION.—If the Secretary dis-
2 tributes amounts under paragraph (1), the dis-
3 tribution shall be made in accordance with de-
4 terminations of the Secretary pursuant to state-
5 ments submitted and the other requirements of
6 section 5 (other than subsection (c)) and in ac-
7 cordance with regulations and procedures pre-
8 scribed by the Secretary.

9 (C) REALLOCATION.—

10 (i) FAILURE TO COMPLY.—Any
11 amounts allocated for use in a State under
12 paragraph (1) that are not received by the
13 State for any fiscal year because of failure
14 to meet the requirements of subsection (a)
15 or (b) of section 5 shall be added to
16 amounts allocated to all States under para-
17 graph (1) for the succeeding fiscal year.

18 (ii) CLOSEOUT.—Any amounts allo-
19 cated for use in a State under paragraph
20 (1) that become available as a result of the
21 closeout of a grant made by the Secretary
22 under this section in nonqualifying areas of
23 the State shall be added to amounts allo-
24 cated to the State under paragraph (1) for

1 the fiscal year in which such amounts be-
2 come available.

3 (6) SINGLE UNIT.—Any combination of units of
4 general local governments may not be required to
5 obtain recognition by the Secretary pursuant to sec-
6 tion 3(2) to be treated as a single unit of general
7 local government for purposes of this subsection.

8 (7) DEDUCTION.—From the amounts received
9 under paragraph (1) for distribution in nonquali-
10 fying areas, the State may deduct an amount, not to
11 exceed 1 percent of the amount so received, to pro-
12 vide technical assistance to local governments.

13 (8) APPLICABILITY.—Any activities conducted
14 with amounts received by a unit of general local gov-
15 ernment under this subsection shall be subject to the
16 applicable provisions of this Act and other Federal
17 law in the same manner and to the same extent as
18 activities conducted with amounts received by a unit
19 of general local government under subsection (a).

20 (j) QUALIFICATIONS AND DETERMINATIONS.—The
21 Secretary may fix such qualification or submission dates
22 as he determines are necessary to permit the computations
23 and determinations required by this section to be made
24 in a timely manner, and all such computations and deter-
25 minations shall be final and conclusive.

1 (k) PRO RATA REDUCTION AND INCREASE.—

2 (1) REDUCTION.—If the total amount available
 3 for distribution in any fiscal year to metropolitan
 4 cities and urban counties under this section is insuf-
 5 ficient to provide the amounts to which metropolitan
 6 cities and urban counties would be entitled under
 7 this section, and funds are not otherwise appro-
 8 priated to meet the deficiency, the Secretary shall
 9 meet the deficiency through a pro rata reduction of
 10 all amounts determined under this section.

11 (2) INCREASE.—If the total amount available
 12 for distribution in any fiscal year to metropolitan
 13 cities and urban counties under this section exceeds
 14 the amounts to which metropolitan cities and urban
 15 counties would be entitled under this section, the
 16 Secretary shall distribute the excess through a pro
 17 rata increase of all amounts determined under this
 18 section.

19 **SEC. 8. STATE AND REGIONAL PLANNING; COMMUNICA-**
 20 **TIONS SYSTEMS.**

21 (a) ALLOCATIONS.—Subject to appropriations au-
 22 thorized under section 4(b)(2), \$500,000,000 shall be allo-
 23 cated to States, regional cooperations, and local commu-
 24 nities, in accordance with subsection (b) for—

1 (1) homeland defense planning within the
2 States;

3 (2) homeland defense planning within the re-
4 gions;

5 (3) the development and maintenance of State-
6 wide training facilities and homeland security best-
7 practices clearinghouses; and

8 (4) the development and maintenance of com-
9 munications systems that can be used between and
10 among first responders, including law enforcement,
11 fire, and emergency medical personnel.

12 (b) USE OF FUNDS.—Of the amount allocated under
13 subsection (a)—

14 (1) \$325,000,000 shall be used by the States
15 for homeland defense planning and coordination
16 within each State;

17 (2) \$50,000,000 shall be used by regional co-
18 operations and regional, multistate, or intrastate au-
19 thorities for homeland defense planning and coordi-
20 nation within each region;

21 (3) \$50,000,000 shall be used by the States to
22 develop and maintain Statewide training facilities
23 and best-practices clearinghouses; and

24 (4) \$75,000,000 shall be used by the States
25 and local communities to develop and maintain com-

1 munications systems that can be used between and
2 among first responders at the State and local level,
3 including law enforcement, fire, and emergency per-
4 sonnel.

5 (c) ALLOCATIONS TO STATES.—

6 (1) IN GENERAL.—Funds under this section to
7 be awarded to States shall be allocated among the
8 States based upon the population for each State rel-
9 ative to the populations of all States.

10 (2) MINIMUM AMOUNT PROVISION.—The provi-
11 sion in section 7(i)(4) relating to a minimum
12 amount shall apply to funds awarded under this sec-
13 tion to States.

14 (3) LOCAL COMMUNICATIONS SYSTEMS.—Not
15 less than 30 percent of the funds awarded under
16 subsection (b)(4) shall be used for the development
17 and maintenance of local communications systems.

18 (d) ALLOCATIONS TO REGIONAL COOPERATIONS.—
19 Funds under this section to be awarded to regional cooper-
20 ations and regional, multistate, or intrastate authorities,
21 shall be allocated among the regional cooperations based
22 upon the population of the areas covered by the cooper-
23 ations.

1 **SEC. 9. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES.**
2

3 No person in the United States shall on the ground
4 of race, color, national origin, religion, or sex be excluded
5 from participation in, be denied the benefits of, or be sub-
6 jected to discrimination under any program or activity
7 funded in whole or in part with funds made available
8 under this Act. Any prohibition against discrimination on
9 the basis of age under the Age Discrimination Act of 1975
10 (42 U.S.C. 6101 et seq.) or with respect to an otherwise
11 qualified handicapped individual as provided in section
12 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
13 shall also apply to any such program or activity.

14 **SEC. 10. REMEDIES FOR NONCOMPLIANCE WITH REQUIREMENTS.**
15

16 If the Secretary finds after reasonable notice and op-
17 portunity for hearing that a recipient of assistance under
18 this Act has failed to comply substantially with any provi-
19 sion of this Act, the Secretary shall—

20 (1) terminate payments to the recipient under
21 this Act;

22 (2) reduce payments to the recipient under this
23 Act by an amount equal to the amount of such pay-
24 ments which were not expended in accordance with
25 this Act; or

1 (3) limit the availability of payments under this
2 Act to programs, projects, or activities not affected
3 by such failure to comply.

4 **SEC. 11. REPORTING REQUIREMENTS.**

5 (a) IN GENERAL.—Not later than 180 days after the
6 end of each fiscal year in which assistance is awarded
7 under this Act, the Secretary shall submit to Congress a
8 report which shall contain—

9 (1) a description of the progress made in ac-
10 complishing the objectives of this Act;

11 (2) a summary of the use of such funds during
12 the preceding fiscal year; and

13 (3) a description of the activities carried out
14 under section 7.

15 (b) REPORTS TO SECRETARY.—The Secretary is au-
16 thorized to require recipients of assistance under this Act
17 to submit to such reports and other information as may
18 be necessary in order for the Secretary to comply with sub-
19 section (a).

20 **SEC. 12. CONSULTATION BY ATTORNEY GENERAL.**

21 In carrying out the provisions of this Act including
22 the issuance of regulations, the Secretary shall consult
23 with the Attorney General and other Federal departments
24 and agencies administering Federal grant-in-aid pro-
25 grams.

1 **SEC. 13. INTERSTATE AGREEMENTS OR COMPACTS; PUR-**
2 **POSES.**

3 The consent of the Congress is hereby given to any
4 2 or more States to enter into agreements or compacts,
5 not in conflict with any law of the United States, for coop-
6 erative effort and mutual assistance in support of home-
7 land security planning and programs carried out under
8 this Act as they pertain to interstate areas and to localities
9 within such States, and to establish such agencies, joint
10 or otherwise, as they may deem desirable for making such
11 agreements and compacts effective.

12 **SEC. 14. MATCHING REQUIREMENTS; SUSPENSION OF RE-**
13 **QUIREMENTS FOR ECONOMICALLY DIS-**
14 **TRESSED AREAS.**

15 (a) REQUIREMENT.—Grant recipients shall con-
16 tribute from funds, other than those received under this
17 Act, 10 percent of the total funds received under this Act.
18 Such funds shall be used in accordance with the grantee's
19 statement of homeland security objectives.

20 (b) ECONOMIC DISTRESS.—Grant recipients that are
21 deemed economically distressed shall be waived from the
22 matching requirement set forth in this section.

○